



NORWICH
City Council

NOTICE OF DETERMINATION

Date of Hearing: 21 June 2013

Licence Type: Review of a premises licence

Name of Applicant: Norfolk County Council (Trading Standards)

Name of Premises: Norwich Mini Market and Off Licence.

Postal address of Premises: 31 St Stephens Road, Norwich NR1 3SP

Licensing Sub-Committee: Councillors Button (Chair) Henderson and Maxwell

Other Persons Present: Mr Ali Capti, Mr Mehmet Sert; Mr Duncan Harris and Mr Matthew Lucking of Trading Standards, Norfolk County Council and Jeremy Brown and Michelle Bartrum of Norfolk Constabulary; Mr Tony Shearman of the Environmental Protection Section of Norwich City Council, Mr Ian Streeter (Licensing Manager); Mr D Lowens and Ms R Thompson of nplaw

DETERMINATION

1. The application to vary the premises licence to specify Mr Mehmet Sert as the designated premises supervisor and the application to transfer the premises licence to Mr Mehmet Sert, both opposed by the Norfolk Constabulary, were withdrawn by Mr Ali Capti prior to being considered.
2. The sub-committee then heard the application by Norfolk County Council, Trading Standards service to review the premises licence in respect of 31 St Stephens Road, Norwich.

Councillors heard from Mr Ian Streeter who presented the report regarding this application to review the premises licence. He referred the councillors to their range of powers and noted that the matter was previously listed for a review on 24 April but was unable to proceed on that day due to that sub-committee not being certain that the respondent to the review had been properly served.

Norfolk County Council, Trading Standards service (Duncan Harris) then addressed the committee regarding the reasons for this review being their concern regarding a number of criminal offences involving the sale of alcohol to under age children covering the last two

years and more and summarised the matters contained on pages 32 and 33 of the agenda, emphasising an incident which occurred on Thursday 25 June 2009 when a 15 year old male volunteer was able to purchase two cans of Fosters lager, an incident on 16 February 2011 when counterfeit bottles of Smirnoff Vodka were discovered behind kick boards for the shelving units, together with the discovery of cigarettes, hand rolling tobacco, spirits and wine where it was believed the duty had been evaded, an incident on 22 February 2011 when a 13 year old female volunteer was able to purchase a bottle of WKD Original Blue and an incident in December 2012 when a 17 year old girl was able to purchase a bottle of vodka from these premises and due to its consumption subsequently required medical intervention at hospital. Mr Harris spoke regarding the warnings given to the business, including warning letters issued in both English and Turkish and mentioned that during a visit on 9 March 2012 to deliver a warning letter to the premises (given to Mr Sert) officers noted the sale of alcohol to a person who appeared to be under age without any challenge being made by Mr Sert. Comments made by Mr Sert during his interview on 17 June 2011 were also noted. Mr Harris also mentioned the difficulties which had been found attempting to serve Mr Capti with papers due to difficulty in obtaining his correct location.

It was agreed that on 8 June 2012 one young volunteer was refused service of alcohol.

Mr Harris mentioned that it was the experience of Norfolk County Council trading standards that Mehmet Sert has held himself out to be the sole trader and the person responsible for these premises in discussions with trading standards.

The councillors then heard from the Norfolk Constabulary who confirmed that they supported the need for a review of these premises because the premises were not being run correctly. Information continued to be received, prompting test sales to take place. In the police's view the sale of vodka to the hospitalised child was not a one off mistake but part of a series of problems indicating that there needed to be changes to management and stated the information from the 17 year old who had purchased the vodka was that she had visited the shop on four separate occasions when she was 16 without being requested to provide identification. The police referred councillors to their proposed conditions.

Mr Ali Capti when asked if he wished to ask questions of Trading Standards or Norfolk Constabulary following their presentations said that he did not wish to do so in either case.

Mr Ali Capti then spoke to Committee and in response to a question from nplaw (D Lowens) confirmed (after speaking to Mr Sert in Turkish) that it was correct that on 25 June 2009 a fixed penalty notice had been issued to a member of staff regarding illegal sale of alcohol, it was agreed that on 16 February 2011 concealed bottles and cigarettes had been found, it was agreed that on 22 February 2011 a member of staff at the premises had sold alcohol to an under age person, it was agreed that Mr Sert had confirmed when questioned by Trading Standards that at that date no formal process to record refusals existed (though one has subsequently been prepared) and that no formal training to members of staff existed and Mr Sert confirmed via Mr Capti that these were the answers he had given. Mr Capti agreed that a 17 year old had been able to purchase vodka from the premises in December 2012 and this had led to a further fixed penalty notice being issued to a member of staff in respect of the illegal sale of alcohol to an under age person. Mr Capti was directed to the conditions presented by the Norfolk Constabulary on page 69 of the agenda and by the Trading Standards service of Norfolk County Council on page 33 of the agenda and disputed whether it was appropriate for all staff working at the premises involved in the sale of alcohol to undertake the national certificate for personal licence holders or similar before being allowed

to serve alcohol. Other than the insertion of words ensuring that the electronic till prompt mechanism proposed by Trading Standards under (c) related to alcohol sales Mr Capti was happy to accept these proposed conditions.

Mr Capti was questioned by councillors regarding the amount of time he spends at the premises and problems regarding his correct address were mentioned as had been detailed by the representative for Trading Standards. A councillor noted that one employee had been responsible for two under age sales and heard from Mr Capti regarding his reasons for not wishing to have staff undertaking the national certificate for personal licence holders or similar. Mr Capti mentioned that he had tried to give some training on this matter.

Mr Capti did not wish to speak further to members of the Sub-Committee and had no comments to make regarding the powers available to the Sub-Committee.

Members considered their decision in private.

The Sub-Committee's Decision

The Sub-Committee removed the current designated premises supervisor Mr Ali Capti from the premises licence, suspended the licensable activity of the sale of alcohol at the premises for a period of three months and imposed the following conditions:

1. All staff working at the premises involved in the sale of alcohol must undertake the national certificate for personal licence holders or similar before being allowed to serve alcohol.
2. An electronic till prompt mechanism for alcohol sales shall be installed at the premises within three months.
3. A CCTV system covering all areas of the shop where alcohol is displayed, the counter area and the store room shall be present and the footage shall be retained for 30 days.
4. There will always be a member of staff on duty who is conversant with the CCTV system and able to download CCTV footage for police or other authorised persons upon request.
5. The premises licence holder shall ensure that adequate training shall be carried out and documented in relation to dealing with an incident, prevention of crime and disorder, sale of alcohol to under age persons, persons over 18 purchasing for under age persons and to a person who is drunk. This training shall be given before a person is authorised to sell alcohol at the premises.
6. The training records shall be kept on the premises and produced to a police officer or licensing authority authorised person upon request.
7. Refresher training shall be completed every six months and documented in the training records.
8. A refusal/incident book will be kept to record all refusals and incidents. The log will include date, time, product, gender, approximate age and description of the customer and shall be completed as soon as practicable after the sale is refused.

9. The premises licence holder shall mark all alcohol products so that their point of origin of sale can be identified.
10. The shop shall operate a Challenge 25 policy in relation to alcoholic products, therefore any person appearing to be under 25 years of age must produce photographic ID before being allowed to purchase alcohol. Notices stating this policy will be displayed at the entrance to the premises and at the counter area.

The Sub-Committee's reasons

Councillors found that the management of the premises was unsatisfactory and that despite warnings being given a series of sales of alcohol to under age persons had taken place. Councillors were also concerned regarding the hidden counterfeit items found. Councillors noted Mr Capti had not raised any challenges to the responsible authorities following the representations made by Norfolk County Council Trading Standards and the Norfolk Constabulary other than in respect of one condition. Councillors thought the designated premises supervisor was not in sufficient control of the premises to enable compliance with all the licensing objectives and noted the agreed admissions made as to the lack of formal training to staff and the lack of a refusals book and the length of time problems have been shown to exist. The designated premises supervisor has been at fault, failing to ensure the licensing objectives of the protection of children from harm and the prevention of crime and disorder are sufficiently supported at these premises.

Due to the poor management the Sub-Committee felt it was necessary to order the DPS removed and felt it was necessary to add the conditions mentioned above in order to assist with compliance with the licensing objectives. Members had considered adding the requested condition from the Norfolk Constabulary regarding the sale of beers/ciders over 6.5% alcohol by volume but felt that this was not necessary to deal with the issues arising from this review.

These were very serious matters and the failure over a long period and despite warnings to ensure the protection of children from harm required the significant penalty of a three month suspension which would also allow the necessary changes to the premises and the training of staff to take place. This was an appropriate and proportionate response to the seriousness of the matters agreed, the detrimental effect on the community which took place regarding sales of alcohol to under age persons and the vulnerability of the persons affected by such sales.

Those present were given details of their right to appeal.

Right to appeal against the determination of the Authority:

Applicants, the premises licence holder and any person who has submitted a relevant representation who is aggrieved by the decision or the imposition of any term or condition

or restriction have a right of appeal to the Magistrates Court within 21 days of the date on which they are notified of the decision.

Dated this 12 July 2013